(3)

DP No. 1201/2005

BEFORE THE MLP. STATE ADMINISTRATIVE TRIBUNAL, JABALPUR

O.A. No. 2697 /95

APPLICANT ... Suresh Prasad Gupta
son of Shri Dwarka Pd. Gupta,
aged about 41 years,
occupation service,
M.A., Assistant Teacher,
at Gangpur Block & Tehsil Kawardha,
Distt. Rajnandgaon, M.P.

Versus

RESPONDENTS .. 1 State of Madhya Pradesh
through the Secretary,
Department of School Education,
Bhopal, M.P.

2 Dy. Director of Education,
Kawardha, Distt. Rajnandgaon

3 Jt. Director of Education,
Education Division, Durg,
(M.P.)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT 1985

AFR

(48)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 1201 of 2005

Petitioner : Suresh Prasad Gupta

Versus

Respondents : State of Madhya Pradesh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri N.L. Shrivastava, counsel for the Petitioner.

Shri Ajay Dwivedi, Panel lawyer for the Respondents/State.

ORAL ORDER

(11th July, 2006)

1. According to the petitioner, the petitioner was appointed by order dated 27.1.1983 (Annexure A/2) by the Managing Committee of the Private Higher Secondary School, Pipriya, Kawardha, District Rajnandgaon on temporary basis, wherein the condition of the appointment was that the service of the petitioner could be terminated without assigning any reason by giving one month notice or pay in lieu of notice.

2. The petitioner was never confirmed on the post of Upper Division Teacher appointed by the Nagrik Shiksha Samittee, Pipriya. The said school was taken over by the State Government on 27.8.1987 (Annexure A/3) and the service of the petitioner was also taken over by the State Government by order dated 20.2.88 (Annexure A/4) on the post of Assistant Teacher, keeping in view his eligibility.

3. Learned counsel appearing for the petitioner submits that some other teachers namely Chhoturam, Kapil Narain Sharma and Phagua Ram

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Chandraklar, who have been appointed after the petitioner, have been absorbed on the post of Teacher and the petitioner, who was appointed earlier on temporary basis, was absorbed on the post of Assistant Teacher. Learned counsel for the petitioner submits that this amounts to discrimination and violation of Articles 14 and 16 of the Constitution of India. Learned counsel for the petitioner submits that the petitioner is an experienced teacher, therefore, he should be considered on the post of Teacher at the pay scale of Rs. 1290 - 2040.

4. I have heard learned counsel for the parties and perused the records appended to the petition as well as the return.

5. It is evident that the petitioner was appointed on the post of Upper Division Teacher on the pay scale of Rs. 740 – 1180 by order dated 27.1.83 (Annexure A/2) on temporary basis. The petitioner was never confirmed on the pay scale of Rs. 740 – 1180

6. It is well settled principle of law that an employee has no right to the post until the said employee is confirmed on the said post. The petitioner was never confirmed on the post of Upper Division Teacher. The petitioner was absorbed by the State Government vide order dated 20.2.88 on the better pay scale at Rs. 975 - 1650 and as such he can not be claimed to be prejudiced and has suffered financial loss.

7. I am unable to accept the submission made by learned counsel for the petitioner-as the petitioner has no right on the post of Upper Division Teacher for want of confirmation on the said post.

8. The Supreme Court in the case of **S. Narayana Vs. Md. Ahmedulla Khan & others** (2006 AIR SCW 2872) has observed in para 19, as under:-

"19 .....it is contended that regularisation is the same as confirmation in service, and therefore, lien would operate from the said date. We are afraid that we cannot accept this contention in the face of clear authority to the contrary, to which we have already referred....."

9. For the reasons stated-above, the writ petition stands dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu